

August 26, 2004

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Local Boundary Commission
550 West Seventh Avenue, Suite 1770
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Dear Local Boundary Commission:

Thank you for providing me with the August 12, 2004, *Preliminary Report on Remand Regarding the Impact of the 2002 City of Homer Annexation on the Kachemak Emergency Service Area* prepared by the Department of Community and Economic Development (DCED). As a member of the Commission that voted unanimously in favor of the annexation of 4.58 square miles to the City of Homer on December 26, 2001, I take great interest in this remand proceeding.

The DCED has performed its customary thorough, credible, and knowledgeable analysis of the issues before you. The DCED preliminary report reached the following nine fundamental conclusions:

1. In its remand, the Court has, in effect, created and imposed a new city annexation standard.
2. The Court's "new standard" conflicts with Alaska's Constitution and Statutes concerning the clear preference for city annexation over creation of a new borough service area.
3. Imposition of the Court's "new standard" is incompatible with prior Alaska Supreme Court rulings involving the Commission.
4. We who rendered the original Homer decision were well aware of the constitutional and statutory preference for city annexation over creating a new borough service area (we had dealt with that issue in the three prior cases outlined in the preliminary report).
5. The written comments submitted in this remand proceeding by Kevin Waring, (Chair of the Commission at the time of the original Homer decision) eloquently and accurately reflect our thinking when we rendered the original Homer decision. Those comments also offer relevant concerns in terms of the appropriateness of the remand. I concur fully with Mr. Waring.

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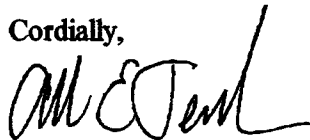
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6. Annexation of the 4.58 square miles to the City of Homer was in the best interests of the State regardless of the impacts on KESA.
7. Neither the City of Homer nor we "cherry-picked" KESA. The 4.58 square miles approved for annexation reflects the proper application of the lawful city annexation standards to the evidence in the original proceeding.
8. The Court's creation of the "new standard" is beyond the scope of its authority and proper role. The Court inappropriately substituted its judgment for ours.
9. Annexation of 4.58 square miles to the City of Homer did not render KESA unfeasible.

I fully support DCED's analysis, conclusions, and recommendations. I urge you to affirm the December 26, 2001, Homer annexation decision.

Thank you for the opportunity to comment.

Cordially,



Allan E. Tesche
Former member of the Local Boundary
Commission